

### **DETAILED ACTION**

*The examiner acknowledges receipt of Applicant's, filed on 7 May 2009.*

#### ***Priority***

This application claims benefit from provisional U.S. Application No. 60/441,668 (filed 01/22/2003). The instant application has been granted the benefit date, 22 January 2003, from the application 60/441,668.

### **RESPONSE TO ARGUMENTS**

#### **35 USC § 1103**

The rejection of claims 5-6 and 8-15 under 35 U.S.C. 103(a) as being unpatentable over Drewett et al. (Journal of Biological Chemistry. 2001. Vol.276; No.36: 33444-33451) in view of Narula et al. (PNAS. July 1999. Col.96: 8144-8149) is withdrawn in response to the applicant's arguments and/or claim amendments.

The applicant's arguments have been fully considered and are persuasive. The applicant has presented several arguments directed to the following points: (1) heart failure does not always involve apoptosis, (2) caspase-3 is not always associated with SRF or heart disease, and (3) SRF is not always associated with apoptosis. A critical part of the examiner's obviousness rejection was establishing the link between SRF cleavage and heart disease. The examiner was not able to find a reference which directly made this connection, so the rejection attempted to establish this link by

showing (1) a connection between cardiac disease and apoptosis and (2) a connection between apoptosis and SRF cleavage. The applicant has presented sufficient documentation in the form of the following references to show that the nexus between SRF cleavage and heart disease was not well established at the time of filing the instant application:

Kang et al. (Circulation Research. 2000; 86: 1107-1113)

Cohen (Biochemical Journal. 1997; 326: 1-15)

Therefore, the examiner finds the applicant's arguments persuasive.

Accordingly, the examiner hereby withdraws the rejection of claims 5-6 and 8-15 under 35 U.S.C. 103(a) as being unpatentable over Drewett et al. in view of Narula et al.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

The prosecution history provides evidence for allowability.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The examiner notified T. Ling Chwang of the proposed Examiner's Amendment on 6/18//2009.

The claims have been amended as follows:

Claim 5. A method of diagnosing cardiac disease resulting from apoptosis in an individual, comprising the step of identifying cleavage of SRF in at least one cardiac cell from a sample from said individual, wherein identifying said SRF cleavage fragment indicates a diagnosis of cardiac disease resulting from apoptosis.

### **Conclusion**

Claims 5-6 and 8-15 are allowed.

***Examiner Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Scott Long** whose telephone number is **571-272-9048**. The examiner can normally be reached on Monday - Friday, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Joseph Weitach** can be reached on **571-272-0739**. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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